

SECOND REGULAR SESSION

# SENATE BILL NO. 1155

94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR CROWELL.

Read 1st time February 19, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5079S.011

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## AN ACT

To repeal sections 169.040 and 169.630, RSMo, and to enact in lieu thereof two new sections relating to the investment of funds for teacher and school employee retirement systems.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 169.040 and 169.630, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 169.040 and 169.630, to  
3 read as follows:

169.040. 1. All funds arising from the operation of sections 169.010 to  
2 169.141 shall belong to the retirement system herein created and shall be  
3 controlled by the board of trustees of that system which board shall provide for  
4 the collection of such funds, shall see that they are safely preserved, and shall  
5 permit their disbursement only for the purposes herein authorized. Such funds  
6 and all other funds received by the retirement system are declared and shall be  
7 deemed to be the moneys and funds of the retirement system and not revenue  
8 collected or moneys received by the state and shall not be commingled with state  
9 funds.

10 2. The board shall invest all funds under its control which are in excess  
11 of a safe operating balance. The funds shall be invested only in those  
12 investments which a prudent person acting in a like capacity and familiar with  
13 these matters would use in the conduct of an enterprise of a like character and  
14 with like aims, as provided in section 105.688, RSMo. The board of trustees may  
15 delegate to duly appointed investment counselors authority to act in place of the  
16 board in the investment and reinvestment of all or part of the moneys of the  
17 system, and may also delegate to such counselors the authority to act in place of

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 the board in the holding, purchasing, selling, assigning, transferring or disposing  
19 of any or all of the securities and investments in which such moneys shall have  
20 been invested, as well as the proceeds of such investments and such  
21 moneys. Such investment counselors shall be registered as investment advisors  
22 with the United States Securities and Exchange Commission. In exercising or  
23 delegating its investment powers and authority, members of the board shall  
24 exercise ordinary business care and prudence under the facts and circumstances  
25 prevailing at the time of the action or decision. No member of the board shall be  
26 liable for any action taken or omitted with respect to the exercise of, or delegation  
27 of, these powers and authority if such member shall have discharged the duties  
28 of his or her position in good faith and with that degree of diligence, care and  
29 skill which a prudent person acting in a like capacity and familiar with these  
30 matters would use in the conduct of an enterprise of a like character and with  
31 like aims.

32 **3. Notwithstanding the provisions of section 105.662, RSMo, the**  
33 **board may set up and maintain a public school and education employee**  
34 **retirement system of Missouri investment fund account in which**  
35 **investment and reinvestment of all or part of the moneys of the system**  
36 **may be placed and be available for investment purposes. For the**  
37 **purpose of investing the funds of the retirement system, the funds may**  
38 **be combined with the funds of the public education employee**  
39 **retirement system of Missouri, but the funds of each system shall be**  
40 **accounted for separately and for all other reporting purposes shall be**  
41 **separate. The board of trustees may promulgate such rules and**  
42 **regulations not inconsistent with the provisions of this section as shall**  
43 **deem necessary for its proper administration, under the provisions of**  
44 **this section and chapter 169, RSMo. No rule or portion of a rule**  
45 **promulgated under the authority of this chapter shall become effective**  
46 **unless it has been promulgated under the provisions of section 536.024,**  
47 **RSMo.**

48 **4. No investment transaction authorized by the board shall be handled by**  
49 **any company or firm in which a member of the board has an interest, nor shall**  
50 **any member of the board profit directly or indirectly from any such investment.**  
51 **All investments shall be made for the account of the retirement system, and any**  
52 **securities or other properties obtained by the board of trustees may be held by a**  
53 **custodian in the name of the retirement system, or in the name of a nominee in**

54 order to facilitate the expeditious transfer of such securities or other  
55 property. Such securities or other properties which are not available in  
56 registered form may be held in bearer form or in book entry form. The retirement  
57 system is further authorized to deposit, or have deposited for its account, eligible  
58 securities in a central depository system or clearing corporation or in a federal  
59 reserve bank under a book entry system as defined in the Uniform Commercial  
60 Code, sections 400.8-102 and 400.8-109, RSMo. When such eligible securities of  
61 the retirement system are so deposited with a central depository system they may  
62 be merged and held in the name of the nominee of such securities depository and  
63 title to such securities may be transferred by bookkeeping entry on the books of  
64 such securities depository or federal reserve bank without physical delivery of the  
65 certificates or documents representing such securities.

66 [4.] 5. With appropriate safeguards against loss by the system in any  
67 contingency, the board may designate a bank or trust company to serve as a  
68 depository of system funds and intermediary in the investment of those funds and  
69 payment of system obligations.

70 [5.] 6. All retirement allowances or other periodic payments paid by the  
71 board shall be paid to recipients of such payments by electronic funds transfer,  
72 unless another method has been determined by the board to be appropriate. Each  
73 recipient of retirement allowances or other periodic payments shall designate a  
74 financial institution or other authorized payment agent and provide the board  
75 information necessary for the recipient to receive electronic funds transfer  
76 payments through the institution or agent designated. This subsection shall  
77 apply to retirement allowances and other periodic payments first paid on or after  
78 January 1, 1998, and shall apply to all retirement allowances and other periodic  
79 payments on and after January 1, 1999.

80 [6.] 7. The board of trustees may deliberate about, or make tentative or  
81 final decisions on, investments or other financial matters in a closed meeting  
82 under chapter 610, RSMo, if disclosure of the deliberations or decisions would  
83 jeopardize the ability to implement a decision or to achieve investment objectives.  
84 A record of the retirement system that discloses deliberations about, or a  
85 tentative decision on, investments or other financial matters is not a public record  
86 under chapter 610, RSMo, to the extent and so long as its disclosure would  
87 jeopardize the ability to implement a decision or to achieve investment objectives.

169.630. 1. All funds arising from the operation of sections 169.600 to  
2 169.715 shall belong to the retirement system created in sections 169.600 to

3 169.715 and shall be controlled by the board of trustees and that board shall  
4 provide for the collection of these funds, see that they are safely preserved, and  
5 shall permit their disbursement only for the purposes authorized in sections  
6 169.600 to 169.715. These funds are declared and shall be deemed to be the  
7 moneys and funds of this retirement system and not general funds of the state  
8 and shall not be commingled with any state funds or other retirement  
9 funds. Solely for the purpose of investing the funds of the retirement system, the  
10 funds may be combined with the funds of the public school retirement system of  
11 Missouri, but the funds of each system shall be accounted for separately and for  
12 all other purposes shall be separate.

13 2. The board shall invest all funds under its control which are in excess  
14 of a safe operating balance. The investment shall be made only in securities  
15 authorized and pursuant to the same standards set for investment by section  
16 169.040.

17 3. **Notwithstanding the provisions of section 105.662, RSMo, the**  
18 **board may set up and maintain a public school and education employee**  
19 **retirement systems of Missouri investment fund account in which**  
20 **investment and reinvestment of all or part of the moneys of the system**  
21 **may be placed and be available for investment purposes. For the**  
22 **purpose of investing the funds of the retirement system, the funds may**  
23 **be combined with the funds of the public school retirement system of**  
24 **Missouri, but the funds of each system shall be accounted for separately**  
25 **and for all other reporting purposes shall be separate. The board of**  
26 **trustees may promulgate such rules and regulations not inconsistent**  
27 **with the provisions of this section as shall deem necessary for its**  
28 **proper administration, under the provisions of this section and chapter**  
29 **169, RSMo. No rule or portion of a rule promulgated under the**  
30 **authority of this chapter shall become effective unless it has been**  
31 **promulgated under the provisions of section 536.024, RSMo.**

32 4. No investment transaction authorized by the board shall be handled by  
33 any company or firm in which a member of the board has an interest, nor shall  
34 any member of the board profit directly or indirectly from any such investment.  
35 All investments shall be made for the account of the retirement system, and any  
36 securities or other properties obtained by the board of trustees may be held by a  
37 custodian in the name of the retirement system, or in the name of a nominee in  
38 order to facilitate the expeditious transfer of such securities or other

39 property. Such securities or other properties which are not available in  
40 registered form may be held in bearer form or in book entry form. The retirement  
41 system is further authorized to deposit, or have deposited for its account, eligible  
42 securities in a central depository system or clearing corporation or in a federal  
43 reserve bank under a book entry system as defined in the Uniform Commercial  
44 Code, sections 400.8-102 and 400.8-108, RSMo. When such eligible securities of  
45 the retirement system are so deposited with a central depository system, the  
46 securities may be merged and held in the name of the nominee of such securities  
47 depository and title to such securities may be transferred by bookkeeping entry  
48 on the books of such securities depository or federal reserve bank without  
49 physical delivery of the certificates or documents representing such securities.

50 [4.] 5. With appropriate safeguards against loss by the system in any  
51 contingency, the board may designate a bank or trust company to serve as a  
52 depository of system funds and intermediary in the investment of those funds and  
53 payment of system obligations.

54 [5.] 6. All retirement allowances or other periodic payments paid by the  
55 board shall be paid to recipients of such payments by electronic funds transfer,  
56 unless another method has been determined by the board to be appropriate. Each  
57 recipient of retirement allowances or other periodic payments shall designate a  
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61 apply to retirement allowances and other periodic payments first paid on or after  
62 January 1, 1998, and shall apply to all retirement allowances and other periodic  
63 payments on and after January 1, 1999.

64 [6.] 7. The board of trustees may deliberate about, or make tentative or  
65 final decisions on, investments or other financial matters in a closed meeting  
66 under chapter 610, RSMo, if disclosure of the deliberations or decisions would  
67 jeopardize the ability to implement a decision or to achieve investment objectives.  
68 A record of the retirement system that discloses deliberations about, or a  
69 tentative or final decision on, investments or other financial matters is not a  
70 public record under chapter 610, RSMo, to the extent and so long as its disclosure  
71 would jeopardize the ability to implement a decision or to achieve investment  
72 objectives.

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